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May 5, 2021

**VIA ECF**

Honorable Paul A. Engelmayer  
United States District Judge  
United States District Court, SDNY  
40p Foley Square, Room 2201  
New York, New York 10007

Re: Hugo Kayo v. Police Officer Peter Mertz, et al., 19 Civ. 00365 (PAE)

Your Honor:

I am an attorney that represents plaintiff in the above-referenced matter. I write jointly on behalf of all parties to respectfully request a two-week extension of time, from May 5, 2021 to May 19, 2021, for the parties to submit a joint pretrial order that complies with the Court's Individual Rules, motions *in limine*, and proposed special interrogatories to be put to the jury regarding the applicability of qualified immunity to the remaining claims.

Pursuant to the Court's Order, dated April 14, 2021, counsel for the parties met and conferred about the pre-trial submissions, and the parties have been engaging in settlement negotiations during those conferrals. Settlement discussions between the parties are active and ongoing and the parties expect to know whether they will be able to settle this case at this juncture within the next few days. However, the ongoing settlements negotiations have made it difficult for the attorneys to expend significant time and resources preparing the pre-trial submissions. As the Court is aware, a plaintiff in a civil rights case brought pursuant to 42 USC Section 1983 may recover costs and attorneys' fees as a damage if the plaintiff is the prevailing party after trial. Thus, the costs and attorneys' fees that have accrued throughout this litigation are a factor when negotiating a settlement. The parties are attempting to negotiate a settlement agreement before significant additional costs and attorneys' fees accrue because an accrual of significant additional costs and attorneys' fees could make settlement extremely unlikely. Therefore, the parties are attempting to determine whether they can settle this matter at this juncture, before expending a significant amount of time drafting and filing the pre-trial submissions. The requested two-week extension of time for the parties to file the pre-trial submissions should give the parties with enough time to conclude their settlement negotiations and will allow the parties an opportunity to expend the appropriate time and resources drafting and filing the pre-trial submissions, in the event that the case does not settle.

For the reasons set forth herein, a two-week extension of time, from May 5, 2021 to May 19, 2021, for the parties to file their pretrial submissions will give the parties a small window of time to attempt to settle this matter, which otherwise would not exist because the costs and attorneys' fees would continue to increase.

We thank the Court for its consideration herein.

Respectfully submitted,

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/s/

David M. Hazan, Esq.  
*Attorney for Plaintiff*

Granted. The Court is unlikely to grant further extensions.

SO ORDERED.

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*Paul A. Engelmayer*  
PAUL A. ENGELMAYER  
United States District Judge

May 7, 2021